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Board Members Present

Joanne Hayes-White, President, Public Member
Jennifer Ferrera Schmid, Vice President, Public Member
Captain Robert Carr, Pilot Member
Captain Einar Nyborg, Pilot Member
Captain Oscar Prada, Tanker Company Industry Member
Stephanie Dougherty, Designee of the Secretary of the California State Transportation Agency (CalSTA).

Board Members Absent

Karen Tynan, Public Member
Vacant, Dry Cargo Industry Member

Board Staff Present

Allen Garfinkle, Executive Director
Dennis Eagan, Board Counsel
Alethea Wong, Staff Services Manager I

Identified Public Present

Captain John Carlier, San Francisco Bar Pilots (SFBP) President and Port Agent; Captain Anne McIntyre, SFBP Business Director; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Captains Eric Robinson and Zack Kellerman, SFBP; Rex Clack, Esq.; Jennifer Barton; Roma Cristia-Plant; Robert Booker; Captain Scott Adams, BOPC Trainee.

OPEN MEETING AGENDA

1. Call to Order and Roll Call (President Hayes-White)

President Hayes-White called the meeting to order at 9:30 a.m. Staff Services Manager I Wong called the roll and confirmed a quorum.

2. Review and approval of Board meeting minutes (President Hayes-White)

Board action to approve the minutes from the Board meeting held on June 23, 2022.

Board members were presented with minutes of the June 23, 2022 meeting, but requested more time to review. Commissioner Carr offered some edits, as did Ms. Dougherty.

MOTION: Commissioner Nyborg moved to continue approval of the draft minutes of the meeting held on June 23, 2022. Commissioner Schmid seconded the motion.

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VOTE: YES: Hayes-White, Schmid, Nyborg, Carr, and Prada.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

3. Public comment on matters on the agenda or not on the agenda.

Commissioner Nyborg noted that the San Francisco Bar Pilots “Fatigue Risk Management System” (FRMS) has not been approved by the Board, as the approval has been deferred until fatigue regulations are in place. He proposed convening the Fitness Committee to review the FRMS and possibly recommend approval to the full board. To facilitate this process, he requested scheduling a meeting of the Fitness Committee.

Assistant Director Barton requested that a document related to Personnel Relations be removed from the published Board documents available on the web site. Executive Director Garfinkle apologized for the oversight, and the document was taken down immediately.

4. President Announcements and Activities (President Hayes-White)

President Hayes-White acknowledged that Commissioner Tynan was absent for personal reasons and that she was in our thoughts. She also acknowledged and thanked Board staff for their support. She mentioned that she recently lost her mother, Patricia Hayes (1925 - 2022), a proud native of San Francisco. In addition, she noted the departure of Assistant Director Barton, who is returning to her work at the Franchise Tax Board.

There was a brief discussion of the Board meetings being held “in person” at the Board offices or entirely virtual. Commissioner Schmid expressed a preference towards meeting in person, as did Commissioner Nyborg. Commissioner Carr added that he thought in-person meetings important, but he did not want to lose the option to participate remotely. Commissioner Prada expressed a desire to retain virtual participation. Executive Director Garfinkle offered to work with Board Counsel to determine available formats for the meetings.

5. Board Member Announcements and Activities (Board Members)

Commissioner Carr noted that, as a member of the Pilot Trainee Training Program Selection Exam Interview Committee, he met with the Committee and CalHR representative Steve Shriver, and conducted interviews of the candidates who successfully completed the Simulator Examination.

Ex Officio Member Dougherty noted that she participated in meetings with stakeholders on legislative initiatives.

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Commissioner Schmid inquired of PMSA Vice President and General Counsel Mike Jacob concerning the status of the Dry Cargo Industry Board member submission process. He responded by noting that he has several requests outstanding but that there is a shortage of willing participants.

6. Directors' Report (Executive Director Garfinkle)

A) Correspondence and activities since the Board meeting held on June 23, 2022.

Executive Director Garfinkle noted the following correspondence and activities:

- On June 23, 2022, Board staff received a copy of the PMSA West Coast Trade Report for June, which includes an insightful commentary by Jock O'Connell titled "Is Oakland really a baseball town?"
- On June 27, 2022, Board staff received a letter from SFBP President John Carlier requesting a necessity determination from the Board to authorize new builds for three station boats to replace the PV SAN FRANCISCO, the PV CALIFORNIA, and the PV DRAKE. The replacement is due to the implementation of new rules by the California Air Resources Board.
- On June 28, 2022, he responded to PMSA's Public Records Act request by providing documents concerning conflicts of interest issues regarding the Assistant Director. This response was enabled by the Board decision to waive attorney-client privilege regarding these documents.
- On June 30, 2022, he sent the Third Quarter Surcharge Letter to the Port Agent.
- On July 8, 2022, he notified Artelia that the Board was relinquishing our hold on the August 29 – September 2 manned model class due to the low probability of a NCB being approved in time. Francois Mayor subsequently offered to hold the week of October 3-7 for six pilots, which he requested be put on short-term hold.
- On July 11, 2022, the thirty-day period for appealing the Trainee Training Program Selection Exam simulator module closed. Six appeals were received.
- Also, on July 11, 2022, he was informed that Assistant Director Jennifer Barton had exercised her right of return to FTB and would be resigning her appointment as Assistant Director.
- On July 12, 2022, he attended an informational meeting of the Pilot Boat Advisory Committee. The meeting became informational only when a quorum could not be achieved.
- On July 13, 2022, he provided Assistant Director Barton with a letter outlining her state employment rights with respect to her position at the BOPC, and making her termination date of August 1, 2022, official.

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- On July 14, 2022, he received a copy of an email to the Board members from Assistant Director Barton notifying Board members that she is terminating her CEA appointment as Assistant Director and returning to her previous role at the Franchise Tax Board.
- On July 15, 2022, he attended the start of the PEC meeting held here in the Board offices.
- On July 19, 2022, Board staff cancelled a meeting of the Selection Appeal Committee scheduled for July 20, 2022, due to the expected absence of one of the members. As this is a three-member committee and the only Board committee not advisory in nature, the committee chair felt that it was important to have a full attendance for the meeting. The meeting will be rescheduled for August 9, 2022.
- On July 22, 2022, Board staff received a copy of the PMSA West Coast Trade Report for July.
- On July 26, 2022, Board staff received a synopsis of amendments to AB 2056, which is in the process of being amended to include Ratesetting Process Reforms, Temporary Transit Fees, and other additional Rate Adjustments.
- On July 27, 2022, Board staff received a AB 2056 Sponsor fact sheet, which provides more details about the bill in its current form.

B) Report on pilot licensing matters since the Board meeting held on June 23, 2022.

Since the June Board meeting, the Board has issued license renewals to Captains Slack and Crowl.

C) Report on Board surcharges.

Board surcharges collected for the month of June 2022 were \$267,261.24, comprised of the following surcharge amounts:

- Operations Surcharge - \$145,316.25
- Pilot Training Surcharge - \$29,250.00
- Trainee Surcharge - \$92,694.99

D) Report of Pension Fiduciary.

As of June 1, 2022, we currently have 84 pensioners, and one disability pension pending.

The pension surcharge rate was set for the Second Quarter of 2022 at \$.05535, based on a 12-month tonnage lookback period that ran from January 2021 through December 2021.

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With the pension surcharge rate for June set at \$0.05535, the tonnage for June was 19,519,940, resulting in collections totaling \$1,080,428.40, on a target of \$1,147,180.36, resulting in a variance of \$66,751.81 under target (compared to the May 2022 variance of \$110,439.05 over target). The administrative costs for the month totaled \$3,185.10, making the total distribution for June \$1,077,233.45.

The last COLA increase to the pension was April 1, 2020.

E) Report on outstanding requirements of Board actions in response to Board determination and direction on Incident Review Committee reports.

Nothing to report.

F) Report on legislative activities and contractual matters.

Staff Services Manager I Wong reported on the following:

Report on Legislative Matters:

AB 2056 Introduced by Assembly Member Grayson on February 14, 2022, proposes to amend HNC Section 1190.2. The purpose of this amendment ostensibly is to ensure requirements of any rule governing the emissions of commercial harbor craft imposed by the State Air Resources Board are included in the determination of pilotage rates, but may be a placeholder for broader legislative initiatives involving pilotage rates.

Bill status as of July 21, 2022: The bill is with the Appropriations Committee and a hearing is scheduled for August 1, 2022, at 10 a.m.

Report on Contractual Matters:

New/Renewing:

- UC Regents University of California San Francisco (UCSF) Pilot/Trainee Medical Assessments: California Highway Patrol (CHP) sent the agreement to UCSF for signing on May 20, 2022. The contract is still under review with UCSF. (Estimated Completion Date is August 30, 2022)
- Manned Model Training Services: The NCB Justification is pending review and approval by CHP senior level management. Once CHP signs off on form, it will be submitted to the Department of General Services for review and approval, which takes approximately 30 days. (Estimated Completion Date is August 30, 2022)
- Trainee Drug Testing: The contract has been routed to the vendor, American Maritime Safety, Inc., for their signature. (Estimated Completion Date is August 15, 2022)
- State Controller's Office: The amended contract has been signed by the Executive Director and is pending State Controller's Office's signature. The amendment adds the Pilot Dispatch

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System and Pilot Boat Maintenance Surcharges to the contract and will be included in the current audit of calendar year 2021. (Estimated Completion Date is August 1, 2022)

7. **Port Agent's Report (Port Agent Carlier)**

A) **Monthly report on San Francisco Bar Pilots (SFBP) pilot availability and absences.**

The following pilots were absent for medical reasons (AFMR):

- Captain Rocci since March 28, 2022

The SFBP continually monitors the dispatch list for possible 12-hour minimum rest period (MRP) exceptions. For any potential exception that is likely to result in a rest period of less than 10 hours, SFPB will ensure that mitigating measures are enacted. Mitigating measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings, cancelling previously granted compensated time off requests, suspending SFBP internal working rules, or calling in off-watch pilots.

There are currently 50 licensed pilots.

In July there were 10 MRP exceptions, with the shortest rest period being 10.5 hours.

B) **Monthly report on SFBP ship piloting business activity.**

For the month of July, there were normal operations for all pilot vessels except for P/V GOLDEN GATE, which was offline from June 7, 2022, to June 13, 2022, due to overheating of the port reduction gear. The P/V PITTSBURG has been laid up since March 9, 2022.

Billed vessel moves for March 2022 were as follows:

- Bar Crossings: 385
- Bay Moves: 108
- River Moves: 53
- Total Moves: 546
- Gross Registered Tons (GRT): 19.5 million

When comparing 2022 vessel move data with the same period in 2021, total moves were down 5.9% and GRT was down 7.2%.

C) **Monthly confidential written report of SFBP pilots who have been absent for medical reasons (AFMR). The Board may go into closed session to discuss contents**

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of the Port Agent's confidential report as authorized by Harbors and Navigation Code § 1157.1.

There was no discussion of the confidential written report of pilots who have been absent for medical reasons. There was no closed discussion of this item.

8. Pilot Evaluation Committee (Captain Robinson)

A) Report on the Pilot Evaluation Committee (PEC) meeting held on July 20, 2022.

PEC Chair Captain Robinson reported on the following:

- The PEC met on July 20, 2022, and in attendance were Committee members Captains Aune, Ruff, Slack, Wehr, and Robinson.
- The PEC provided Executive Director Garfinkle a report of trainee activity over the past month.
- Trainees were interviewed and counseled individually in closed session by the PEC members on their progress in the Pilot Trainee Training Program.
- There are currently eight trainees: Captains Adams, Barnum, Burns, Meyer, Olmsted, Pascucci, Sappington, and Snapp. The trainees' range of time in the program is 3 months to 33 months.
- Captains Adams, Olmstead, Barnum, and Snapp have First Class pilotage endorsements for unlimited tonnage upon San Francisco Bay issued by the Coast Guard on their federal licenses.
- Captains Adams, Olmstead, Barnum, and Snapp are handling in all areas. Captain Adams is currently on probation and continues to work on consistency in his piloting.
- Captains Burns, Meyer, Pascucci, and Sappington are acquiring route trips and handling or part handling vessels in all areas.
- In closed session, all trainees were individually interviewed and counseled on their progress in the training program. Most trainees are presently meeting the recommended benchmarks and are progressing at their own rate.
- The next PEC meeting is scheduled for August 17, 2022, at 7:30 a.m. at the Board office.

B) Possible PEC recommendation to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program.

There was no recommendation.

C) Possible Board action to place one or more Pilot Trainee Training Program trainees on or off probation, or dismiss one or more trainees from the program.

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There was no recommendation.

- D) Possible PEC recommendation as to whether a trainee has or trainees have successfully completed the Pilot Trainee Training Program. Possible Board action whether to award a Certificate of Completion to a trainee who has completed the Pilot Trainee Training Program.**

There was no recommendation.

- E) Possible recommendation from the Executive Director for the Board to issue a state pilot license to a trainee who holds a Certificate of Completion from the Pilot Trainee Training Program. Possible Board action to accept a recommendation from the Executive Director that a trainee holding a Certificate of Completion from the Pilot Trainee Training Program be licensed as a state-licensed pilot.**

There was no recommendation.

- 9. Reported Safety Standard Violations (Executive Director Garfinkle)
(Reported safety standard violations occurring up to the start of the meeting will be reported on.)**

Executive Director Garfinkle reported that there were no safety standard violations reported.

- 10. Incident Review Committee—Reportable Piloting Events (Executive Director Garfinkle)
(Reportable piloting events occurring up to the start of the meeting will be reported on.)**

Executive Director Garfinkle reported that the IRC Committee is prepared to deliver the IRC Report on the M/V GLOBE PEGASUS today and will not be requesting further extensions in this matter.

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11. Significant Port Safety and Security Cases Report (Executive Director Garfinkle)

Report on marine casualties, navigational safety, and significant incident management cases relevant to the Board as reported by the U.S. Coast Guard in its Prevention / Response – San Francisco Harbor Safety Statistics report.

Executive Director reported on two loss of propulsion cases noted in the Harbor Safety Statistics report:

- A foreign flagged chemical tankship experienced a loss of propulsion while getting underway from Anchorage 9. Vessel reported that they raised anchor and attempted to start the main engine with negative results on multiple tries. Vessel will remain at anchorage to troubleshoot and effect repairs. Case pending.
- A foreign-flagged containership experienced a loss of propulsion while mooring in Oakland, CA. The vessel was unable to immediately respond to an astern bell given by the pilot onboard. Vessel reported that main engine fuel rail pressure dropped, limiting maneuvering while mooring. A technician found that an end flange and tip seal for the intermediate fuel accumulator had corrosion damage. The classification society and the Coast Guard witnessed corrected deficiencies and the operational control was cleared. Case closed.

12. Discussion of conflicts of interest issues regarding the Assistant Director (Executive Director Garfinkle and Board Counsel Eagan).

Discussion and possible Board action to approve a letter to the Secretary of the California State Transportation Agency regarding the Assistant Director conflict of interest issues.

President Hayes-White noted that the proposed letter was not yet prepared for Board member approval. Commissioner Carr suggested that the Board move forward with action on this item in closed session. Commissioner Schmid suggested that this item be continued on the August agenda. Board Counsel Eagan suggested that the agenda item be revised for the next Board meeting. There was no further discussion.

13. Report on the progress of the Ad Hoc Committee to Review the Pilotage Rate Setting Process initiative (Commissioner Carr)

Commissioner Carr thanked Executive Director Garfinkle for sending a letter to the Governor highlighting the work of the Ad Hoc Committee to Review the Pilotage Rate Setting Process.

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14. Report on shipping activity regionally and within the Board's jurisdiction (Captain McIntyre)

SFBP Business Director Captain McIntyre reported that the vessel movement numbers in June were worse than the numbers during spring, and this is reflected in the Port Agent's report on bar crossings and moves during the rolling 24 months. June's numbers were similar to January and February's numbers. If AB 2056 progresses, it will address the need for an emergency funding, to assist with the pilots' revenue loss. She added that the Maritime Press mentioned that there were additional delays at the Port of Oakland due to the trucker protests related to the AB 05.

Mr. Jacob clarified that the Port of Oakland was closed all last week due to the trucker protests. Labor was sporadic. The Port of Oakland was able to open earlier in the week and there have not been any issues. Mr. Jacob reported that PMSA will be working through the backlog during the next several weeks. The terminals are currently full and there are vessels still waiting to come into port.

15. Incident Review Committee report on the M/V GLOBE PEGASUS allision with several pilings at Levin Terminal in Richmond, CA on April 8, 2021. (Executive Director Garfinkle/Vice President Schmid)

A presentation of the Incident Review Committee report on M/V GLOBE PEGASUS allision with several pilings at Levin Terminal in Richmond, CA on April 8, 2021. Board deliberation of the Incident Review Committee's recommendations to the Board and determination regarding the event involving the M/V GLOBE PEGASUS allision with several pilings at Levin Terminal in Richmond, CA on April 8, 2021. The Board may go into closed session for the deliberation of the incident report presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3) and (e)(1).

Vice President Schmid recused herself from participation as a member of the Board so that she could participate in the meeting as Chair of the Incident Review Committee (IRC).

Executive Director Garfinkle presented the IRC report on the M/V GLOBE PEGASUS allision with several pilings at Levin Terminal in Richmond, CA on April 8, 2021. He summarized the incident as follows:

- On the morning of April 28, 2021, the M/V GLOBE PEGASUS (hereinafter GLOBE PEGASUS) was departing Richmond (RCH20) for sea, with Captain Kellerman supervising trainee Captain Deisher. The ship was starboard side to the berth.
- Captain Kellerman inquired of the Captain of the GLOBE PEGASUS if he would allow Captain Deisher have the conn under his supervision and the master agreed to allowing

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the trainee to conn the ship. Two assist tugs were available for the job, the tractor tugs VALOR and VETERAN. The tug VALOR had a trainee operator aboard and requested permission from the pilot for the trainee operator to do the work, which was agreed to.

- The tug VALOR was made fast with one line on the port bow, and the tug VETERAN was made fast on the port quarter with one line.
- Once the tugs were fast, Captain Deisher conducted a master-pilot exchange, supervised by Captain Kellerman, then proceeded to the bridge wing to commence letting go lines. The only lighting was ambient light, so it was difficult to see the dock.
- They commenced letting go lines forward and aft, leaving the spring lines for last. Once all lines were let go and aboard, the ship started to come off the berth slightly. The ship's engines were ordered dead-slow astern. When the stern started to come away from the pier more quickly than the bow, the forward tug was ordered dead-away, then easy away, and when no effect was noted, he was ordered "a little more than easy," at which time some movement of the bow off the dock was detected.
- After working the tug on the stern "minimum-toward" to flatten the ship, Captain Deisher stopped the engine. The bow had opened slightly, and the ship was nearly parallel to the pier.
- Once again, the engines were ordered dead-slow astern on the ship. The VALOR was ordered dead-away, and the VETERAN ordered minimum-toward. When the bow began to close on the pier, Captain Deisher gave ever increasing away commands to the VALOR to address the closing bow. He then ordered the ship's engines stopped and had the VETERAN work dead-toward and then easy-toward in an effort to maintain the position of parallel to the pier.
- Captain Kellerman was concerned with how close the bow was to the pier and inquired of the master if the mate on the bow could provide a distance off. There was a discussion between the master and the mate on the bow, but no clear answer was forthcoming. At that point, someone with a radio on the dock transmitted a message that involved the pilings, but, according to Captain Kellerman, the transmission was garbled.
- Captain Kellerman instructed Captain Deisher to land the ship back alongside, which they did. The ship had moved approximately 60 feet astern, which now provided room for the forward tug to shift his line from the port shoulder to the center lead forward. The ship then continued to back out of the berth and the remainder of the transit was uneventful.
- Captain Deisher inquired of the master whether any damage had occurred, and he replied that nothing was reported. The dock personnel made no declaration of damage at the time.
- The following day, the ship's agent forwarded communication that the ship made unintended contact with the pier, and that the initial estimate was that there was approximately \$15,000 in damage.
- When a Commission Investigator inspected the alleged damage with the Facility Director of Levin Terminal, there was some question about the scope of damage and point of

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contact. When a revised estimate of damage was requested from Levin Terminal, none was forthcoming.

- Following a review of the evidence, the Incident Review Committee determined that, based on the challenges provided by the narrow channel, the fact that both the tug operator and the pilot were in-training, and the specious nature of the damage estimate, that Captain Kellerman exercised the diligence and care that any other similarly situated pilot would have exercised and found no negligence, and hence no misconduct on his part.

After some discussion and consideration of the report, none of the Board members called for a closed session to further consider the evidence. It was suggested that the poor lighting at Levin Terminal may have contributed to the event. Some Board members familiar with the Marine Oil Terminal Engineering and Maintenance Standard (MOTEMS), which are enforced by the California State Lands Commission (SLC), suggested that perhaps MOTEMS, which does have lighting standards as part of their regulations, might apply. Mr. Robert Booker, a Ship Safety Specialist with the SLC, noted that they only have jurisdiction over terminals where hydrocarbons cargos are worked, and even though Levin Terminal does handle a by-product of oil production (coke), it is not subject to MOTEMS.

It was suggested that as a response to this incident that the Board send a letter of concern to Levin Terminal suggesting improvements to the lighting on their pier. There was no further discussion.

MOTION: Commissioner Carr moved to accept the conclusion of the Incident Review Committee and find for no misconduct on the part of the pilot. Commissioner Prada seconded the motion.

VOTE: YES: Hayes-White, Schmid, Nyborg, and Carr
NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

16. Public comment on matters not on the agenda. (President Hayes-White)

There were no comments.

17. Proposals for the next Board meeting agenda. (President Hayes-White)

Commissioner Carr requested that Board staff include an agenda item regarding the Pilot Boat Advisory Committee meetings from July 12, 2022, and August 18, 2022.

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18. Adjournment.

President Hayes-White adjourned the meeting at 11:19 a.m.

Submitted by:



Allen Garfinkle
Executive Director

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